IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 4325 of 2007()

CRA.538/2005 of ADDL. DISTRICT & SESSIONS COURT (ADHOC-I), KOLLAM
CC.203/2003 of JUDL.MAGISTRATE OF FIRST CLASS-III, PUNALUR

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REVN. PETITIONER: REVISION PETITIONER/APPELLANT/ACCUSED

MOHANKUMAR, AGED 31 YEARS,
S/O.KARUNAKARAN NAIR, CHIRAYATHUPUTHEN VEEDU,
MANNAMKUZHI, KARYARA, VILAKKUDI VILLAGE.

BY ADV. SRI.R.ARUN RAJ

RESPONDENTS: RESPONDENT/COMPLAINANT

STATE OF KERALA, REP. BY SUB INSPECTOR
OF POLICE (CRIME NO.8 OF 2003) KUNNICODE
POLICE STATION REPRESENTED BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI. RAVEENDRA BABU, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 05/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR , J

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CRL.R.P. NO. 4325 OF 2007

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Dated this the 5th day of December, 2007.

ORDER

The revision petitioner, who was the sole accused in C.C. No. 203 of 2003 on the file of the Judicial First Class Magistrate-III, Punalur for offences punishable under Section 332 IPC and Section 3(2)(e) of Prevention of Damage to Public Property Act, 1984, challenges the conviction entered and the sentence passed against him by the courts below for the aforementioned offences.

2. The case of the prosecution can be summarised as follows:-

On 09.01.2003 at about 4.05 p.m. the accused with the intention of causing hurt to PW1, the driver of a K.S.R.T.C bus bearing Registration No. KL-15/3548 and thereby deter him from discharging his public duty, caught hold of the shirt of PW1 while he was driving the bus and when the bus reached at Mannamkuzhi junction the accused alighted from the bus and smashed the front wind screen with a stick causing a damage of Rs.6000/- and then pulled PW1 out of the bus and beat him

causing injuries. The accused has thereby committed the aforementioned offences.

3. On the side of the prosecution 8 witnesses were examined as PWs 1 to 8 and 5 documents were got marked as Exts.P1 to P5.

4. After the close of the prosecution evidence, the accused was questioned under Section 313(1)(b) Cr.P.C with regard to the incriminating circumstances appearing against him in the evidence for the prosecution. He denied those circumstances and maintained his innocence.

5. The learned Magistrate after trial, as per judgment dated 28.07.2005 found the revision petitioner guilty of the offences and sentenced him to simple imprisonment for six months under Section 332 IPC and rigorous imprisonment for six months and to pay a fine of Rs. 5000/- and on default to pay the fine, to suffer simple imprisonment for three months under Section 3 r/w Section 2(e) of the PDPP Act. Even though the revision petitioner preferred an appeal as Crl. Appeal No. 538/2005 before the Sessions Court, Kollam, the said appeal was dismissed as per judgment dated 08.02.2006. Hence this revision.

6. Even though the learned counsel appearing for the revision petitioner assailed on various grounds the conviction recorded against the revision petitioner, in as much as the conviction has been recorded by the courts below after a careful evaluation of the oral and documentary evidence in the case, this Court sitting in revision will be loath to interfere with the said conviction which is accordingly confirmed.

7. What now remains to be considered is the adequacy or otherwise of the sentence imposed on the revision petitioner. Even though the attack on PW1 was unawares and unprovoked, I do not think that on the facts and circumstances of the case the revision petitioner deserves penal servitude by way of incarceration. I am of the view that the interests of justice will be adequately met by directing that the imprisonment already undergone by the revision petitioner from 09.11.2007 and an appropriate fine/compensation shall meet the ends of justice. Accordingly, the imprisonment already undergone by the revision petitioner from 09.11.2007 shall suffice for the conviction under Sections 332 IPC and 3(2)(e) of the PDPP Act. Besides the said imprisonment, the revision petitioner shall also pay a fine of

Rs.5000/-(Rupees five thousand only) under Section 332 IPC and shall pay a compensation of Rs.7,500/- (Rupees Seven thousand and five hundred only) to the officer in charge of the Punalur Depot of the K.S.R.T.C for the damage caused to the K.S.R.T.C bus. From out of the fine amount, a sum of Rs.3000/- (Rupees three thousand only) shall be paid to PW1, the injured. The fine as well as the compensation shall be deposited before the court below within 45 days from today. If the petitioner commits default in payment of the fine amount, he shall suffer simple imprisonment for one month. If default is committed in payment of the compensation amount, the petitioner shall undergo simple imprisonment for two months.

In the result, the revision is disposed of confirming the conviction but modifying the sentence as above.

V. RAMKUMAR, JUDGE.

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